

**UNITED STATES INTERNATIONAL TRADE COMMISSION**  
Washington, D.C.

**In the Matter of**

**CERTAIN POLYETHYLENE  
TEREPHTHALATE YARN AND  
PRODUCTS CONTAINING SAME**

**Inv. No. 337-TA-457**

**NOTICE OF COMMISSION DETERMINATION TO REVERSE THE DECISION  
OF THE PRESIDING ADMINISTRATIVE LAW JUDGE ON THE ISSUE OF  
INDEFINITENESS; TERMINATION OF THE INVESTIGATION  
WITH A FINDING OF NO VIOLATION.**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined to reverse the decision of the presiding administrative law judge (ALJ) contained in ALJ Order No. 61, which issued on February 4, 2002, that the patent claims at issue were not shown to be invalid as indefinite under 35 U.S.C. § 112, second paragraph, by clear and convincing evidence. The Commission has previously determined not to review an initial determination (ID), contained in Order No. 61, that found that the patent claims at issue were not infringed. 67 *Fed. Reg.* 14975 (March 26, 2002). The investigation has been terminated with a finding of no violation of section 337 of the Tariff Act of 1930.

**FOR FURTHER INFORMATION CONTACT:** Jean Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, D.C. 20436, telephone 202-205-3104. Copies of the public version of Order No. 61 and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, D.C. 20436, telephone 202-205-2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TTD terminal on 202-205-1810. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at <http://dockets.usitc.gov/eol/public>. General information concerning the Commission may also be obtained by accessing its internet server

(<http://www.usitc.gov>).

**SUPPLEMENTARY INFORMATION:** On May 17, 2001, the Commission instituted this patent-based investigation, which concerns allegations of unfair acts in violation of section 337 of the Tariff Act of 1930 in the importation and sale of certain polyethylene terephthalate yarn and products containing same that allegedly infringed certain claims of U.S. Letters Patent 5,630,976 ("the '976 patent"). 66 *Fed. Reg.* 27586. The complainant in this investigation is Honeywell International Inc. of Morristown, New Jersey. The respondents are Hyosung Corp. of Seoul, Korea and Hyosung America, Inc., a wholly-owned U.S. subsidiary of Hyosung Corp. (collectively, Hyosung).

On December 13, 2001, respondent Hyosung moved for summary determination of patent invalidity and non-infringement. The motion was opposed by Honeywell and supported by the Commission investigative attorney (IA). On February 4, 2002, the ALJ issued Order No. 61, a portion of which was an ID granting Hyosung's motion for summary determination of no infringement, and a portion of which was an order denying Hyosung's motion as to patent invalidity. The ALJ found that respondents had failed to prove by clear and convincing evidence that the claims at issue of the '976 patent were invalid due to indefiniteness, lack of enablement, or failure to provide an adequate written description. Respondents filed a petition for review of the ID on February 19, 2002. Complainant and the IA filed appeals of the order denying summary determination on the same date.

On March 21, 2002, the Commission determined to review only the ALJ's decision on the issue of indefiniteness under 35 U.S.C. § 112, second paragraph. The issues not under review became the Commission's final determination under Commission rule 210.42(h)(2).

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 190, as amended, 19 U.S.C. § 1337, and in sections 210.24 and 210.45 of the Commission's Rules of Practice and Procedure, 19 C.F.R. §§ 210.24, 210.45.

By order of the Commission.

Marilyn R. Abbott  
Secretary

Issued: May 17, 2002